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JUN - 1 2001  
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TC 2800 MAIL ROOM  
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Applicants: TORII et al.  
Serial No.: 09/391,250  
Filed: September 7, 1999  
For: SEMICONDUCTOR DEVICE AND ITS FABRICATION METHOD  
Group: 2811  
Examiner: C. Nguyen

#9  
Election  
FJOPEs  
6-5-01

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RESPONSE TO ELECTION REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

May 24, 2001

Sir:

In response to the election requirement dated February 22, 2001 in the above-identified application, applicants hereby respectfully traverse this election requirement.

With regard to the three listed embodiments, it is respectfully submitted that the close relationship between these embodiments justifies common examination. In particular, in comparing the first and second embodiments (with the first embodiment being shown, for example, in Figs. 1-7 and the second embodiment being shown in Figs. 8-14), it can be seen that these two embodiments are quite closely related to one another. For example, on page 13, line 21 et seq., it is stated:

"Fig. 8 shows an embodiment when the present invention is used in DRAM. According to the embodiment, a capacitor lower electrode is thickened and its side walls are utilized to thereby increase the electrostatic capacitance of the capacitor."

Following this, it is noted on page 13, line 28 through page 14, line 2 that:

"Fabrication steps up to forming the embedded diffusion barrier layer is shown by Fig. 5 are the same as those in First Embodiment."

In other words, the second embodiment represents a variation of the first embodiment particularly adapted for a DRAM. As such, the second embodiment is obviously very closely related to the first embodiment.

Similarly, the third embodiment shown in Figs. 15-21 represents another variation. As noted on page 14, line 15 et seq., this third embodiment modifies the first or second embodiment by dispensing with the matching allowance between the lower electrode and the contact plug and by self-adjustingly forming a reaction barrier layer to the lower electrode of the capacitor. Again, although this is a variation, it is closely related to the first and second embodiments.

As a result of the close relationship between the three listed embodiments, it is respectfully submitted that the common issues of these claims call for a common examination of claims 1-20 in this application. Such a common examination will avoid redundant efforts in searching and prosecuting which will almost surely result if this restriction requirement is not removed.

Further, it is urged that such a common examination is warranted based upon the close relationship of these embodiments. MPEP 703 specifies:

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

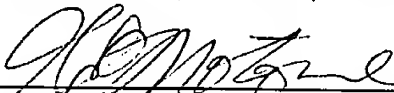
It is respectfully submitted that this is the situation here, given the close relationship between the embodiments in question. Accordingly, it is respectfully requested that the Examiner reconsider this election requirement in light of the above comments, and MPEP 803, and, correspondingly, remove the restriction requirement.

Although the applicants believe that the election requirement is not warranted for the reasons set forth above, in order to be fully responsive to the election requirement, applicants hereby elect Embodiment I (Figs. 1 to 7), noting that claims 1-4, 7-11 and 14-18 are readable thereon, subject to the traverse provided herein.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (520.37546X00), and please credit any excess fees to said deposit account.

Respectfully submitted,

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